IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 1022 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURYKANT MANILAL PATEL
Versus
THE STATE OF GUJARAT & ANR

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Appearance :
MR MEHUL SHARAD SHAH for Applicant
MS DS PANDIT APP for Respondent No.1
MR AJAY L PANDEY for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 27/12/2005

ORAL JUDGMENT

1. **RULE**. Learned APP Ms.D.S.Pandit waives service of rule on behalf of the respondent No.1 – State of Gujarat and learned advocate Mr.Ajay L. Pandey waives service of rule on behalf of the respondent No.2.

2. The present applicant came to be convicted by the learned Judicial Magistrate (F.C.) at Mehsana vide judgment and order dated 6th November, 2004 for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to undergo imprisonment of one year and to pay a fine of Rs.5,000/-, in Criminal Case No.2008 of 1999. The present applicant, being aggrieved by this judgment and order, preferred an appeal before the Court of Sessions at Mehsana being Criminal Appeal No.56 of 2004 which also came to be dismissed vide judgment and order dated 22nd December, 2005 and hence this Revision Application.

3. Learned advocate Mr.Pandey appears on advance copy. The learned advocate Mr.M.S.Shah for the

applicant and learned advocate Mr.Ajay L. Pandey for the respondent No.2 submit that the parties i.e. complainant and the accused – present applicant, have settled the matter and compromise is arrived at between the complainant and the accused in terms of the affidavit filed by the complainant before the Notary Public at Mehsana on 26th December, 2005 which is placed on record at page No.39 of this compilation. Learned advocate Mr.Shah for the applicant as well as learned advocate Mr.Pandey for the respondent No.2 – original complainant certify the genuineness of the affidavit preferred by the complainant before the Notary Public and the compromise arrived at between the parties.

4.In view of the above, compromise arrived at between the complainant and the accused in Criminal Case No.2008 of 1999 of the Court of Judicial Magistrate (F.C.), at Mehsana for the charge under Section 138 of the Negotiable

Instruments Act, is recorded and the applicant, consequent upon recording of the compromise, after setting aside the conviction and sentence awarded to the applicant, is acquitted of the charge under Sections 138 of the Negotiable Instruments Act in the said Criminal Case. The present applicant is in judicial custody in pursuance of the order passed by the Appellate Court and, therefore, it is directed that the applicant be set at liberty forthwith, if he is not required to be detained for any other purpose. The fine paid by the applicant to be refunded to the applicant by the trial Court.

5.This Revision Application is, thus, allowed. Rule is made absolute to the above extent. Direct service is permitted, today.

[J. R. VORA,J.]

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